

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

AKO BURRELL,

Plaintiff,

6:24-CV-1169
(DNH/MJK)

-v.-

TIA VAN WINKLER,
N. PEZDEK, D. TRAGLIA,
LAPORTE, D. BEKTIC, BONK
and STATE OF NEW YORK
DOCCS,

Defendants.

AKO BURRELL, Plaintiff, pro se

MITCHELL J. KATZ, U.S. Magistrate Judge

ORDER

On October 30, 2024, the court issued an Order and Report-Recommendation (“ORR”) in this action. (Dkt. No. 5). In the ORR, I reviewed the plaintiff’s civil rights complaint pursuant to 28 U.S.C. § 1915.¹ (*Id.*). Based upon my initial review, and after finding that plaintiff met the financial criteria to proceed IFP, I recommended the following claims survive initial review and require a response: (a) Plaintiff’s Fourteenth

¹ The court assumes familiarity with, and refers to, the ORR for a summary of the facts in the complaint. (Dkt. No. 5 at 3-8).

Amendment due process claims against defendants Van Winkler, LaPorte, Pezdek, and Pelligrino; (b) Plaintiff's Fourth Amendment excessive force/unreasonable search and seizure claims against defendants Traglia, Bektic, Van Winkler, LaPorte, and Pelligrino; and (c) Plaintiff's First Amendment retaliation claims against defendants Van Winkler, Pezdek, Pelligrino, and LaPorte **except** for any claims arising from the denial of his "right" to "litigate at Tier III hearings, provide legal assistance to incarcerated individuals and conduct legal visits as a paralegal to correctional facilities." I otherwise recommended that the remaining defendants and causes of action set forth in the complaint be dismissed. (*Id.*).

Plaintiff did not file objections to the ORR. On November 20, 2024, District Court Judge David N. Hurd accepted my ORR and ordered that the case be referred to me for an order directing service of the complaint on the remaining defendants. (Dkt. No. 7).

WHEREFORE, based on the findings above, and in the ORR (Dkt. No. 5) and Judge Hurd's Decision and Order (Dkt. No. 7), it is

ORDERED that the Clerk shall issue summonses and forward them, along with a copy of the complaint (Dkt. No. 1), a packet containing General Order 25, which sets forth the Civil Case Management Plain used by the Northern District of New York, and a copy of this Decision and Order, the ORR, and Judge Hurd's Order (Dkt. Nos. 5, 7) to the United States Marshal for service upon defendants **TIA VAN WINKLER, N. PEZDEK, D. TRAGLIA, LAPORTE, and D. BEKTIC**; and it is

ORDERED that a response to plaintiff's complaint be filed by the named defendants or their counsel as provided for in the Federal Rules of Civil Procedure; and it is

ORDERED that all pleadings, motions, and other documents relating to this action must bear the case number assigned to this action and be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. Any paper sent by a party to the Court or the Clerk must be accompanied by a certificate showing that a true and correct copy of same was served on all opposing parties or their counsel. Any document received by the Clerk or the Court which does not include a proper certificate of service will be stricken from the docket. Plaintiff must comply with all requests by the Clerk's Office for any documents that are necessary to maintain this action. All parties must comply with the Local Rules of the Northern District of New York in filing motions. Plaintiff is also required to promptly notify the Clerk's Office and all parties or their counsel, in writing, of any change in his address; his failure to do so will result in the dismissal of this action; and it is

ORDERED that the Clerk shall serve a copy of this Order on plaintiff.

Dated: January 17, 2025



Mitchell J. Katz
U.S. Magistrate Judge